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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FILED

2008 JUN -5 AM 11:11

UNITED STATES OF AMERICA,) Magistrate Docket No. 08MJ1766
SOUTHERN DISTRICT OF CALIFORNIA

Plaintiff,

) *[Signature]* DEPUTY
COMPLAINT FOR VIOLATION OF:

v.

) Title 8, U.S.C., Section 1326
Julio GUTIERREZ-Borbon,) Deported Alien Found in the
United States
Defendant)

'08 MJ 17 66

The undersigned complainant, being duly sworn, states:

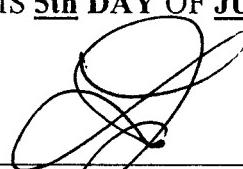
On or about **June 4, 2008** within the Southern District of California, defendant, **Julio GUTIERREZ-Borbon**, an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.



SIGNATURE OF COMPLAINANT
James Trombley
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 5th DAY OF JUNE, 2008



Leo S. Papas
UNITED STATES MAGISTRATE JUDGE

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CONTINUATION OF COMPLAINT:
Julio GUTIERREZ-Borbon**PROBABLE CAUSE STATEMENT**

On June 4, 2008 at approximately 4:15 a.m., Border Patrol Agent J. Gutierrez was assigned to line watch duties in the Chula Vista Area of Operation in an area known as the "64 Firebreak." This area is located approximately four miles east of the Otay Mesa, California Port of Entry and approximately one mile north of the United States/Mexico International Boundary.

Agent Gutierrez was notified by scope operator, Border Patrol Agent S. Crudale, that three individuals were seen climbing up the Otay Mountain. Agent Gutierrez responded and after searching the area found the three individuals hiding. Agent Gutierrez then identified himself as a United States Border Patrol Agent and questioned the subjects as to their citizenship and nationality. All three individuals including one later identified as the defendant **Julio GUTIERREZ-Borbon**, admitted to being citizens and nationals of Mexico without any immigration documents that would allow them to enter or remain in the United States legally. Agent Gutierrez placed all three under arrest and had them transported to the Chula Vista Border Patrol Station for processing.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to Mexico on May 28, 2008 through San Ysidro, California. These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.